

## BAYARD M. ATWOOD

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MAY 21 (legislative day, MAY 15), 1942.—Ordered to be printed

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Mr. ELLENDER, from the Committee on Claims, submitted the following

## REPORT

[To accompany S. 2203]

The Committee on Claims, to whom was referred the bill (S. 2203) for the relief of Bayard M. Atwood, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The sole purpose of the bill is to waive in favor of Bayard M. Atwood, of Phoenix, Ariz., the bar of the time limitations in sections 15 to 20, both inclusive, of the Compensation Act of September 7, 1916, and to leave the Commission free to determine the merits of Mr. Atwood's claim for disability alleged to have been sustained in the performance of his duties as United States Soil Conservation Service camp superintendent at Safford, Ariz., in March 1940, and to afford him such measure of relief as the facts, when established, may show him to be entitled to under the Compensation Act.

The facts are fully set forth in the following letter from the Employees' Compensation Commission, which is appended hereto and made a part of this report.

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UNITED STATES EMPLOYEES' COMPENSATION COMMISSION,  
Washington, October 8, 1941.

CHAIRMAN, COMMITTEE ON CLAIMS,  
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Reference is made to your request for the Commission's report upon the bill, S. 1855, for the relief of Bayard M. Atwood. The bill provides:

"That the limitations of time in sections 15 to 20, inclusive, of the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes', approved September 7, 1916, as amended, are hereby waived in favor of Bayard M. Atwood, of Phoenix, Arizona, and the Employees' Compensation Commission is hereby authorized and directed to receive and consider his claim if filed within six months of the approval of this Act for disability alleged to have been sustained in the

performance of his duties as United States Soil Conservation Service camp superintendent at Safford, Arizona, in March 1940: *Provided*, That no benefits shall accrue prior to the approval of this Act."

It appears from the file in this case that Mr. Atwood on March 13, 1940, while employed as a camp superintendent for the Department of Agriculture at Safford, Ariz., is alleged to have sustained an injury when he was struck on the left forearm (at the site of an old scar) by a map-case lid, causing a small lump to appear on said arm. The alleged injury did not result in a bruise or abrasion and gave the employee no immediate disability or inconvenience. He did not seek or obtain medical attention for the alleged injury until August 10, 1940.

On May 26, 1941, the Commission received by reference from Mr. Albert W. Carter, Jr., Acting Administrative Assistant, United States Department of Agriculture, a report from Dr. W. Warner Watkins, dated May 16, 1941, which states as follows:

"Mr. B. M. Atwood came under observation by me first on February 2, 1940, for a chronic ulceration on the bridge of the nose. This was diagnosed and treated as an epithelioma and has healed. While under treatment for this lesion, on August 10, 1940, Mr. Atwood called attention to a lesion over the ulnar styloid area of the left wrist. This was a lesion of about three-fourths inch in diameter with a rounded elevated margin and depressed ulcerating center, having every characteristic of malignancy. The history given was that there was formerly an angioma in this area which was treated by Dr. H. L. Goss, of Phoenix, and which healed incompletely leaving a scar with some discoloration. Sometime earlier in the year of 1940 (the exact date not being recorded by us) Mr. Atwood had injured this area again and following this injury the lesion observed on August 10, 1940, slowly developed. This was evidently a malignant growth and its destruction by X-ray was advised and treatment given on that date. We advised Mr. Atwood at that time and hold the same opinion at this time that the injury or blow over this scar evidently aroused activity in an area where there were latent malignant cells still present and as a result the malignant growth had slowly developed. Mr. Atwood was observed again on October 15, 1940, at which time it was found that the malignant growth apparently had been destroyed with an ulcerating defect which had not healed. On April 10, 1941, Mr. Atwood was again observed by us giving the history that the ulceration had never healed and had become very painful with edema of the soft tissues and inability to use the wrist. He has been under almost daily treatment since that time by dressings applied at this laboratory in conjunction with physiotherapy which is being given at the Good Samaritan Hospital in Phoenix.

"At the present time it appears that there is probably some malignant activity still present. It is uncertain how long treatment will need to continue and also uncertain what further procedures may become necessary to effect a cure of this lesion.

"In view of the more detailed history which has recently been given me by Mr. Atwood it would be my opinion that the blow received over this area in March 1940 aroused activity in latent malignant cells and caused a malignant growth to develop in this region as the result of such irritation."

Claim for compensation was not filed by Mr. Atwood until May 19, 1941. Since it did not appear that Mr. Atwood had filed written notice of the alleged injury or claim for compensation within 1 year from the date thereof, as is required by the mandatory provisions of sections 15 to 20, inclusive, of the Federal Employees' Compensation Act of September 7, 1916, the Commission was without authority of law to grant him any benefits under the Federal Employees' Compensation Act.

Since for the reason stated above the Commission had no authority to award compensation in this case, no inquiry was made relative to the merits of Mr. Atwood's case and the Commission can, therefore, express no opinion thereon.

The proposed measure is apparently designed to waive in favor of Mr. Bayard M. Atwood the bar of the time limitations in sections 15 to 20, both inclusive, of the Compensation Act of September 7, 1916, and to leave the Commission free to determine the merits of Mr. Atwood's claim, and to afford him such measure of relief as the facts, when established, may show him to be entitled to under the Compensation Act.

It appears that Mr. Atwood has incurred medical expenses in connection with the condition alleged to have resulted from the injury on March 13, 1941. If the measure should receive favorable consideration the Commission would apparently be precluded from reimbursing him for any medical expenses incurred

prior to the approval of the bill, for the reason that the bill provides "That no benefits shall accrue prior to the approval of this act."

It is noted that the bill contains no reference to the nature of the injury on account of which it proposes to extend relief. Such a reference is customary and it is suggested that it be added for the sake of the record and for the identification of the case.

In view of the foregoing, the Commission makes no recommendation as to the advisability of the enactment of the bill S. 1855.

Very truly yours,

JOHN M. MORIN,  
*Acting Chairman.*

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